D.B. CIVIL SPECIAL APPEAL NO.622/2006

Umrao Khan & Ors. Vs. The State of Raj. & Ors.

Date : 19.9.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HONBLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. V.K. Sharma for the appellant.

BY THE COURT:- (PER HON'BLE RAJESH BALIA J.)

Heard learned counsel for the appellant.

The appellant has filed a civil suit in the Court of Civil Judge (Junior Division) & Judicial Magistrate, First Class, Bikaner seeking a permanent injunction restraining the respondents from interfering in drawing water from unsanctioned water source. The application for temporary injunction was disposed of by the learned Trial Judge vide his order dated 16.10.2000 rejecting the application finding that the applicant has neither a prima facie case nor balance of convenience is in his favour nor it is a case of irreparable injury being

caused to the applicant, the application for interim relief was not granted. Those findings have been affirmed by the learned Additional District Judge, No.2, Bikaner on appeal. The order refusing grant of interim junction has been challenged by way of writ petition since no second appeal is provided.

In our opinion, the extra-ordinary jurisdiction in ordinary circumstances cannot be invoked for providing forum for appeal. The learned Single Judge has dismissed the writ petition. We find no reason to interfere with the order of the learned Single Judge.

The appeal is, therefore, dismissed.

[GOPAL KRISHAN VYAS], J. [RAJESH BALIA], J.

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